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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,287	11/28/2005	Aki Vanhatalo	915-001.059 (35977-US-PCT)	9403
73658 Nokia, Inc. 6021 Connection Drive, MS 2-5-520 Irving, TX 75039	7590 01/07/2009		EXAMINER CASCA, FRED A	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 01/07/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/538,287

**Applicant(s)**

VANHATALO, AKI

**Examiner**

FRED A. CASCA

**Art Unit**

2617

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is in response to applicant's amendment filed on July 30, 2008. Claims 1-14 and 16-17 are still pending in the present application. **This Action is made FINAL.**

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Northcutt (US 2004/0176114 A1) in view of Natsuno (US 2003/0092455 A1).

Referring to claim 1, Northcutt discloses a method (abstract and figure 1) comprising:

making a request in a device for establishing a connection with a receiver (paragraphs 1-2, "MMS", "SMS", note that in making a call and/or messaging the initiating mobile phone inherently makes a request for a connection),

automatically starting a multimedia messaging service (abstract, figures 1-3 and paragraphs 9, 19, "creating a multimedia voice and text message") and activating a recording function of a sound clip (abstract, figures 1-3 and paragraphs 9, 19, "message composer accesses the mobile phone's messaging function"),

recording a voice message as a sound clip of a multimedia message in a volatile random access memory of the device (abstract, figures 1-3 and paragraphs 9, 19, "the message composer records a second spoken message contextually related to the text message", "Now, the text

portion and the second spoken message are combined into an MMS message and sent to a recipient using the mobile phone's messaging functions", note the second spoken message is combined with the MMS inherently before being transmitted by mobile phone, thus, the second spoken message is inherently recorded in the mobile phone's RAM),

and transmitting the created multimedia message to the receiver (paragraph 9, "sent to a recipient").

Northcutt does not specifically disclose automatically starting and processing the multimedia actions and activating recording as a response to a failed attempt for establishing a connection in the format claimed. However, sending a message (e.g., error message, notification message) in response to a failed connection is well known in the art as Natsuno discloses it.

Natsuno discloses detecting a failed attempt for establishing a connection and automatically sending an error message in response to that failed attempt (paragraph 88 and figure 8, "message of apology by an automatic voice", "sending an error voice message").

It would have been obvious to one of the ordinary skill in the art at the time of invention to modify the method of Northcutt in the format claimed by applicant by incorporating the teachings of Natsuno, for the purpose of providing convenience to users, saving time and using bandwidth efficiently, and thus providing an efficient messaging system.

Referring to claim 2, the combination of Northcutt/Natsumo disclose the method of claim 1 and further disclose an identifier (inherent) in the multimedia message by which the message can be identified as claimed by applicant (Northcutt, paragraphs 9).

Referring to claim 3, the combinations of Northcutt/Natsumo disclose the method of claim 1 and further disclose in addition to the sound clip, one or a combination of the following is attached in the multimedia message: text, picture, and video image (Northcutt, paragraphs 2-4 and 9, "MMS").

Referring to claim 4, the combinations of Northcutt/Natsumo disclose the method of claim 1, and further disclose the step of automatically transmitting the message containing the sound clip to the receiver (Northcutt, paragraphs 2-4 and 9).

Referring to claim 5, the combinations of Northcutt/Natsumo disclose the method of claim 1, and further disclose the step of transmitting to the receiver as a response to confirming the message sending function as claimed (Northcutt, paragraphs 2-4 and 9, Natsumo, paragraph 88 and figure 8. Also see the rejection of claim 1).

Referring to claim 6, the combinations of Northcutt/Natsumo disclose the method of claim 1, and inherently disclose the message transmitted is the number to which the original request for connection is made (Northcutt, paragraphs 2-4 and 9).

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Northcutt (US 2004/0176114 A1) in view of Natsumo (US 2003/0092455 A1), and further in view of well known prior art (MPEP 2144.03).

Referring to claim 7, the combinations of Northcutt/Natsumo disclose the method of claim 1.

The combination is silent on message being transmitted to the voice mail box of the number to which the original request for connection was made.

The examiner takes official notice of the fact that transmitting voice or multimedia signals to the voice mail box of a user is well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the combination as claimed, for the purpose of providing convenience to users, saving time and using bandwidth efficiently, and thus providing an efficient messaging system.

5. Referring to claims 8-14 and 16-17, claims 8-14 and 16-17 are rejected for the same arguments/reasons that were made in the rejection of claims 1-7 above.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-14 and 16-17 have been considered but they are not persuasive.

In response to applicant's arguments that "Northcutt was filed as a US utility application (Serial Number 10/248,982) on March 6, 2003. The USPTO record shows that it does not claim priority to any other applications. Therefore, the earliest date of Northcutt is March 6, 2003 and this date is later than the above earliest priority date of the present application. Northcutt cannot be used as a prior art reference," and that "a certified English translation of the Finnish patent application 20022176 will be submitted as soon as it becomes available," the examiner respectfully requests that a certified English translation of the Finnish patent application

20022176 be submitted. Since a certified English translation of the Finnish patent application 20022176 has not been provided yet, and the priority data has not been perfected, the rejection of the claims in view of cited prior art is maintained.

### *Conclusion*

7. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred A. Casca whose telephone number is (571) 272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Harper, can be reached at (571) 272-7605. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/VINCENT P. HARPER/

Supervisory Patent Examiner, Art Unit 2617